

BRX/GLOBAL, INC.
MARKETING RESEARCH AND CONSULTING

169 Rue de Ville • Rochester, New York 14618

REBUTTAL TESTIMONY OF JOEL N. AXELROD

I have been asked by the Joint Sports Claimants to respond to testimony of Dr. Stanley Besen, a witness for the Motion Picture Association of America in the 1990-92 cable royalty distribution proceeding. Dr. Besen criticized certain market research (specifically, constant sum surveys of cable operators) conducted by Bortz & Company. For the reasons I will discuss, I do not believe that Dr. Besen's criticisms are justified.

1. Qualifications

I am President of BRX/Global, Inc., an international market research and consulting firm. Founded in 1972, BRX/Global, Inc. conducts market research, primarily for Fortune 500 companies. Approximately 75% of its research is international in scope. BRX has frequently utilized the constant sum methodology to aid a variety of clients in making various business decisions, including pricing decisions.

I graduated from Brown University in 1954 with Honors in Psychology and in 1958 earned a Ph.D. in Social Psychology from the University of Rochester. From 1958 to 1963, I worked in advertising research for several major advertising agencies. I then became Manager of Advertising Research at Lever Brothers with responsibility for the development of improved techniques for measuring advertising effectiveness.

While at Lever Brothers, I conducted what has become a seminal study validating use of the "Constant Sum Scale" to predict purchase behavior ("Attitude

Measures That Predict Purchase", Journal of Advertising Research, March 1968). The results of my study were later confirmed in research done under the auspices of the Advertising Research Foundation (Russell I. Haley and Peter B. Case, "Testing Thirteen Attitude Scales for Agreement and Brand Discrimination", Journal of Marketing (1979)).

In 1966 I joined the Xerox Corporation as Director of Marketing Research. For the next six years, I held a variety of positions including Corporate Planning Manager, Manager of Business Development and a Group Program Manager with P&L responsibility.

I was elected to the Conference Board Council on Marketing Research, and served as Chairman of the Association of National Advertisers Planning and Evaluation Committee. I have frequently spoken at meetings sponsored by the advertising Research Foundation, the American Marketing Association and the Canadian Professional Market Research Society. I have authored one book entitled, "Choosing the Best Advertising Alternative". I have a second book entitled "Brand Equity Systems^(SM): The Warrior's Weapon" which will be published later this year.

2. Testimony

The purpose of the Bortz surveys was to determine the relative values that cable operators placed upon certain categories of "distant signal" programming they had carried during the preceding year. With the assistance of others both inside and outside his firm, Bortz designed a survey which utilized the constant sum scale; cable operators were asked to allocate a distant signal program budget among the different

program categories. Burke Marketing Research administered the survey over the telephone to nearly 200 cable operators each year.

Besen took the position that the responses to the Bortz surveys do not accurately reflect the relative values that cable operators attached to the program categories measured. He criticized the responses as "simply answers to questions". (Tr. 6343) He suggested that one could not expect to receive accurate answers in a short telephone interview which posed a "hypothetical" question. (Tr. 6376, 6381)

I do not agree with Besen's criticisms of the Bortz surveys. Short telephone interviews are widely used in business to business research. Often they are the only way to obtain information from a representative sample of busy executives.

Moreover, the respondents to the Bortz survey were not simply answering any sort of questions. They were responding to a constant sum question. The constant sum technique is widely used and its predictive validity for purchase behavior has been amply documented in my published research as well as research reported by Haley and Case.

The unique contribution of the constant sum scale is that it forces the respondent to think in terms of relative value, which precisely parallels the decision process that the business executive faces. Constant Sum questions are particularly appropriate when, as here, one seeks information about relative values. Use of the constant sum scale here was within accepted business practice.

Survey research is imperfect, and therefore it is invariably open to the type of criticism advanced by Besen. Nevertheless, survey research (including research using

constant sum scales) is routinely relied upon by the business world to make a variety of decisions involving substantial amounts of money. When conducted properly, surveys provide decision makers with useful information on which important decisions can be based.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Dated: 13 February 1996

Joel N. Axelrod
Joel N. Axelrod

Certificate of Service

I hereby certify that on Monday, February 12, 2018 I provided a true and correct copy of the Joel Axelrod Written Rebuttal Testimony (JSC Written Direct Statement Vol. II) to the following:

MPAA-represented Program Suppliers, represented by Alesha M Dominique served via Electronic Service at amd@msk.com

Canadian Claimants Group, represented by Victor J Cosentino served via Electronic Service at victor.cosentino@larsongaston.com

Public Broadcasting Service (PBS), represented by Dustin Cho served via Electronic Service at dcho@cov.com

American Society of Composers, Authors and Publishers (ASCAP), represented by Sam Mosenkis served via Electronic Service at smosenkis@ascap.com

National Association of Broadcasters (NAB), represented by John Stewart served via Electronic Service at jstewart@crowell.com

Broadcast Music, Inc. (BMI), represented by Joseph DiMona served via Electronic Service at jdimona@bmi.com

SESAC, Inc., represented by Christos P Badavas served via Electronic Service at cbadavas@sesac.com

Devotional Claimants, represented by Jessica T Nyman served via Electronic Service at jessica.nyman@pillsburylaw.com

National Public Radio, Inc. (NPR), represented by Gregory A Lewis served via Electronic Service at glewis@npr.org

Multigroup Claimants, represented by Brian D Boydston served via Electronic Service at brianb@ix.netcom.com

Spanish Language Producers, represented by Brian D Boydston served via Electronic Service at brianb@ix.netcom.com

Signed: /s/ Michael E Kientzle